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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,530	01/27/2004	Robert Krottner	RAR478.01	2545

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EXAMINER

GORMAN, DARREN W

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,530

Applicant(s)

KROTTNER, ROBERT

Examiner

Darren W. Gorman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 0106.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-15, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>01/27/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of species Group I in the reply filed on September 1, 2006 is acknowledged.
2. It is noted that Applicant believes claims 1-16 to read on the elected species Group I, with claims 17-20 reading on non-elected species Group II. However, as set forth in the Restriction Requirement mailed May 2, 2006, the Examiner indicated that at least claims 1 and 17 are generic to the distinctly claimed species. Further, although Applicant indicated that claims 1-16 read on the elected species, it has been determined by the Examiner that claims 1-10 and 16-18 read on the elected species Group I. Therefore, claims 11-15, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 1, 2006.

Information Disclosure Statement

3. The IDS filed on January 27, 2004 is hereby acknowledged and has been placed of record. Please find attached a signed and initialed copy of the PTO 1449.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: Reference number “32”, as disclosed in the specification as the “chamber”, is not shown in the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are further objected to because Figure 6 is an exploded view not placed in brackets, which is on the same sheet as another figure. As per 37 CFR 1.84(h)(1), “When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.”

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are further objected to because of the reasons set forth on the Form PTO-948, “Notice of Draftsperson’s Patent Drawing Review” enclosed herewith.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet”

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, it is unclear to the Examiner whether the recitation, “a tubular component”, located on line 2 of the claim, is one and the same as, or is a different element from, “a tubular component” recited on line 2 of claim 1.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Winnett et al., USPN 6,006,374.

Winnett shows an aromatic apparatus, comprising: a plumbing fixture having a

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tubular component (4), the tubular component being configured to carry a warm or hot liquid through the fixture; and an aromatic component (10), a portion of the aromatic component substantially encircling the tubular component (see Figure 1 or 6) and configured to emanate an aroma when the warm or hot liquid is carried through the tubular component (see column 11, lines 7-50). Note: The Examiner is applying the “water supply conduit 4” of Winnett as anticipating the tubular component/plumbing fixture of the instant claims. Further, as shown in each of Figures 1 and 6, the “water inlet port 22” portion of the aromatic component assembly (10) of Winnett is threaded onto the external threads of the tubular component (4), thereby anticipating “wherein said aromatic component substantially encircles said tubular component”.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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12. Claims 1, 2 and 4-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Urra, USPN 6,557,782.

As to claims 1 and 2, Urra shows an aromatic apparatus (see Figures 1-3), comprising: a plumbing fixture (10) having a tubular component (12), the tubular component being configured to carry a warm or hot liquid through the plumbing fixture; and an aromatic component (24) at least partially disposed around the tubular component and configured to emanate an aroma when the warm or hot liquid is carried through the tubular component (see column 4, lines 17-20).

Note: Although the aromatic component (24) shown by Urra is disposed within the “body conduit” element 12 (applied by the Examiner as anticipating the recited “tubular component”), it is reasonable to consider the aromatic component of Urra as being “at least partially disposed around” the tubular component, since the recited term “around” can reasonably be interpreted as surrounding the interior wall of the tubular component, or can also be reasonably interpreted as being in close proximity to the tubular component.

As to claim 4, Urra shows the fixture as being a shower head (10), wherein the aromatic component is disposed inside the shower head (see Figures 1 and 3).

As to claim 5, Urra shows the shower head as comprising a chamber (16), wherein the shower head encloses the aromatic component in the chamber (see Figures 1 and 3).

As to claim 6, Urra shows the shower head as comprising a plurality of openings (22) in communication with the chamber to allow aroma to emanate from the shower head (see Figures 1 and 3).

As to claim 7, as well as the claim is understood by the Examiner, Urra shows the aromatic component being disposed on and around another tubular component (37) disposed inside the chamber (see Figure 3).

As to claim 8, Urra shows the chamber being at least partially formed by a spray cap (20) attached to a base (36) (see Figure 3).

As to claim 9, Urra shows the shower head including a means (30) for replacing or refilling the aromatic component in the chamber (see Figures 1-3; and column 4, lines 13-14 and lines 25-30).

As to claim 10, though not shown in the drawings, the shower head of Urra includes an "injection port" at the outlet end of coupler member (18) being in communication with the chamber (see column 4, lines 5-8).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winnett et al.

Winnett shows and discloses all of the recited elements of claim 1, as discussed above under paragraph 10 of this office action, and Winnett shows and discloses all of the recited elements of claim 17 (see above anticipation of claims 1 and 2 under paragraph 10), except that

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Winnett does not expressly disclose the aromatic component as being “impregnated with a volatile fragrance”.

It should be noted that the term “volatile” is a relative term with respect to the evaporation/vaporization rate of a particular substance. Further, it is well known in the art to use aromatic substances having greater volatility rather than less volatility when the desire is to emanate a particular fragrance into a particular environment such that the fragrance vaporizes relatively quickly for greater dispersal into the desired environment.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to impregnate the aromatic component shown by Winnett with a “volatile” fragrance, as is well known in the art, such that the fragrance vaporizes relatively quickly for greater dispersal into the user’s environment.

15. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urra.

Urra shows and discloses all of the recited elements of claim 1, as discussed above under paragraph 12 of this office action, and Urra shows and discloses all of the recited elements of claims 17 and 18 (see above anticipation of claims 1, 2 and 4 under paragraph 12), except that Urra does not expressly disclose the aromatic component as being “impregnated with a volatile fragrance”.

As previously noted, the term “volatile” is a relative term with respect to the evaporation/vaporization rate of a particular substance. Further, it is well known in the art to use aromatic substances having greater volatility rather than less volatility when the desire is to

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emanate a particular fragrance into a particular environment such that the fragrance vaporizes relatively quickly for greater dispersal into the desired environment.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to impregnate the aromatic component shown by Urrea with a "volatile" fragrance, as is well known in the art, such that the fragrance vaporizes relatively quickly for greater dispersal into the user's environment.

Conclusion

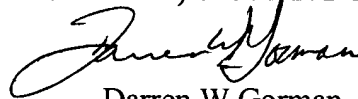
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Brooks, Gentry, Tomaso, Altman et al., and Peters are cited as of interest.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Darren W Gorman
Examiner
Art Unit 3752



DWG
September 28, 2006